WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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BEFORE THE MEDICAL EXAMINING BOARD	
IN THE MATTER OF	
DISCIPLINARY PROCEEDINGS AGAINST	
DIANA L. KRUSE, M.D.,	FINAL DECISION AND ORDER
RESPONDENT.	LS9911175MED

93 MED 037; 93 MED 182; 98 MED 259

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

Diana L. Kruse, M.D. 208 Phillips Blvd. Sauk City, WI 53583

STATE OF WISCONSIN

Wisconsin Medical Examining Board P.O. Box 8935 Madison, WI 53708-8935

Department of Regulation and Licensing Division of Enforcement P.O. Box 8935 Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

- 1. Respondent, Diana L. Kruse (dob 04/21/51) is and was at all times relevant to the facts set forth herein a physician and surgeon licensed in the State of Wisconsin pursuant to license # 21754, first granted on July 14, 1978. Respondent engages in the practice of orthopedic surgery.
 - 2. Respondent failed to maintain current, complete patient health care records in a number of instances.
- 3. A review of patient health care records of nine patients receiving opioids daily for periods exceeding 60 days for the treatment of chronic, non-cancer pain revealed a lack of documentation of adequate monitoring and reevaluation of the patients. No consistent process of documentation_was in place to identify the effectiveness of the analgesic therapy or assess the functional ability of the patients over time.

CONCLUSIONS OF LAW

4. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to §448.02(3), Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

5. The conduct described above violated § Med 10.02(2)(h) and (za), Wis. Adm. Code. Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that Diana L. Kruse, M.D., is REPRIMANDED for her unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that the license and registration of Respondent to practice as a physician and surgeon in Wisconsin is LIMITED as provided in sec. 448.02(3)(e) Wis. Stats. as follows:

- 1. No later than 12 months from the date of this Order, Respondent shall take and satisfactorily pass a 40 hour course in Proper Prescribing of Controlled Dangerous Substances sponsored by the Forensic and Educational Consultants of Margate, N.J., or an equivalent course which has been approved in advance by the Board. Respondent shall be responsible for all costs associated with the completion of this educational requirement. Respondent shall arrange for the course sponsor to report directly to the Department Monitor, at P.O. Box 8935, Madison, WI 53708-8935, telephone (608) 261 7938. Respondent shall authorize release of all records of attendance and performance during the course to the Department Monitor and the Board.
- 2. Respondent shall, at her own expense, participate in and successfully complete within 12 months of the date of this Order, an educational program established through the University of Wisconsin Continuing Medical Education Program (which may conduct any program through the Medical College of Wisconsin or another CME provider) in medical recordkeeping approved by the Board or its designee.

Under tutelage of a mentor selected by the program, Respondent shall review a selected text on medical recordkeeping, and shall introduce the mentor's recommendations into her system in both clinic and hospital records. All of Respondent's records may be reviewed and discussed periodically as the mentor shall determine. Reviews may include not only the adequacy of documentation but any quality of care or related issue.

The mentor shall agree to report any matter which may constitute a danger to the health, safety or welfare of patient or public, or any violation of law to the Board whenever it comes to the mentor's attention.

Respondent's progress and the outcome of the program shall be reported directly to the Department Monitor who may discuss Respondent's progress with the mentor. The UW-CME shall certify the results of the program upon completion to the Board.

If Respondent does not successfully complete the program or achieve the program objectives, the matter shall be referred to the Board to determine any additional appropriate discipline for the conduct set forth in the Findings of Fact.

3. Respondent shall not initiate or continue the use of controlled substances for chronic disease management or acute pain control without accomplishment and documentation of the following:

Evaluation, which at a minimum shall include as appropriate

- a complete medical history,
- a history of the pain complaint,
- an assessment of the impact of pain on the functional level of the patient,
- an assessment of coexisting biomedical conditions,

an assessment of coexisting psychiatric disorders and sociological stressors,

the patient's subjective assessment of life quality,

- a review of pervious diagnostic studies,
- a review of previous pharmacologic and non-pharmacologic pain intervention,
- a history of medications prescribed,
- a substance abuse history.

<u>Plan of Treatment</u>, which shall give due consideration to both pharmacologic and non-pharmacologic modalities, including behavioral strategies, psychotherapy, coping skills training, relaxation techniques, non-invasive somatic interventions and formal pain rehabilitation programs. In the event of the existence of a patient family or personal history of substance abuse, consultation with an addiction medicine specialist shall occur and the result of such consultation shall be documented in the patient record.

<u>Treatment contract</u>, (where daily use of controlled substances is indicated for periods of more than 60 days) signed by the patient and the physician which at a minimum shall provide:

- a single prescribing physician,
- a single pharmacy to fill prescriptions,
- agreement by patient to take medications only as prescribed,
- agreement by patient to cease use of medications when directed,
- release for physician to communicate with other health care providers,

agreement that no early prescription renewals will be made without medical justification,

agreement to timely notify physician if other/additional controlled substances

are prescribed for treatment of unrelated conditions,

agreement that night or weekend prescription renewals will not be made without medical justification.

agreement to accept and follow physician referrals,

agreement that controlled substance treatment will cease in the event of

- lack of functional improvement
- lack of effective pain control
- misuse of controlled substances
- development of significant side effects from drugs
- repeated failure to keep scheduled appointments
- violation of any terms of contract

Respondent shall require strict patient compliance with the controlled substance use contracts in her practice. In the event of a substantive violation of any of the terms of the contract Respondent shall cease prescribing controlled substances for the patient and shall refer the patient to another practitioner for continuation of medical care.

<u>Re-evaluation</u>. On at least a quarterly basis Respondent shall re-evaluate each patient and document the efficacy of the treatment program in relieving pain, enhancing global function level, and shall determine side effects and patterns of misuse or abuse. In the event that treatment progress is lacking in any of these respects, Respondent shall consult with appropriate specialists in pain medicine, addiction medicine, or mental health. Respondent

shall follow the recommendations of the consultants in her treatment of the patient and shall refer the patient to other health care providers where indicated.

Mentor. Respondent shall acquire the services of a mentor acceptable to the Board to review and discuss Respondent's case management of acute pain control and long term controlled substance analgesic treatment. Respondent shall permit the mentor to discuss any aspect of patient case management with the Board or its designee. The mentor shall agree to report any matter which may constitute a danger to the health, safety or welfare of patient or public, or any observed violation of law to the Board. On a quarterly basis as directed by the Board, the mentor shall report to the Department Monitor the status of Respondent's controlled substance case management.

4. Respondent shall, if requested, appear before the Board at least annually to review her compliance with the terms of this Order. Respondent may petition the Board for modification of the terms of this limited license and the Board shall consider Respondent's petition at the time it meets with her.

After three_years of successful, continuous, active professional practice under this Order Respondent may petition the Board for termination of all limitations on the license, and restoration of an unlimited license.

5. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935, Madison, WI 53708-8935

FAX: (608) 266 2264

Phone: (608) 261 7938

- 6. Respondent shall be responsible for all costs and expenses incurred in compliance with the terms of this Order.
- 7. Respondent shall pay the cost of investigation and prosecution of this action in the sum of \$ 400.00 , within 30 days of the date of this Order.

8. Pursuant to §448.02(4), Wis. Stats., if the Board determines that there is probable cause to believe that
respondent has violated any term of this Final Decision and Order, the Board may order that the license and
registration of respondent be summarily suspended pending investigation of the alleged violation.

Dated this <u>17th</u> day of <u>November</u>, 1999.

WISCONSIN MEDICAL EXAMINING BOARD, by:

by: Ronald Grossman, M.D.

